

Appl. No. 09/441,805  
Amdt. Dated November 13, 2003  
Reply of Office Action of August 13, 2003

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Remarks/Arguments

Claims 1-14 are pending in the application. Applicants note that the Office Action Summary indicates that the Action is non-final. Whereas, the text in Section 9 indicates that the Action is final, because Applicants' amendments necessitated the new ground(s) of rejection. Applicants note that no amendments were made in the prior response. As such, the Action status of non-final is believed to be appropriate.

In Sections 3-5 of the Action, claims 1-14 were rejected as being obvious over "Khaleghi" (U.S. Patent No. 6,040,933) and other references. However, Khaleghi and the other references fail to disclose, teach, or suggest the present invention for a number of reasons.

For example, Section 3 of the Action concedes that "Khaleghi fails to specifically teach that the information transmitted at a first bit transmission rate and first signal power to a first receiver without regeneration would require at least one of electrical regeneration and optical regeneration to reach a second receiver". This is precisely the point in fact, Khaleghi and the other references do not disclose, teach, or suggest this aspect of the present invention.

There is no cited support in any of the references for concluding that the claimed invention would be obvious in view of the fact that regeneration is known. In fact, Khaleghi and the other cited references evidence the problem and teach away from the present invention with their proposed solutions, as described in the cited sections of the references. The fact that regeneration is known, while Khaleghi and the other references fail to disclose, teach, or suggest this aspect of the present invention actually highlights the fact that the present invention is not obvious in view of the cited references.

The stated objective of Khaleghi, like Chraplyvy in the prior Action, is to equalize the performance of the channel in their

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systems, not to have a system that is designed for information to be transmitted at a first bit transmission rate and first signal power to a first receiver without regeneration would require at least one of electrical regeneration and optical regeneration to reach a second receiver. As such, Khaleghi, along with Chraplyvy, Taylor, and the other cited references actually teach away from the present invention.

Furthermore, Khaleghi, like the other cited references, describes systems having different bit rates, which suffer from the same problem. Namely, the transmission capacity of the system is not efficiently used, because these systems optically terminate all signals entering the receiver terminal 14, irrespective of the actual destination of each signal. This teaching is present in Khaleghi and the other cited references and is contrary to the present invention. The efficiency problems of Khaleghi, Taylor, and the other cited references are addressed by the present invention by providing a system in which the different bit rate signals are transmitted over different distances to different locations within a network and does not terminate the optical path in the receiver terminal. These claimed features are admittedly not present in the Khaleghi, Taylor, and the other cited references. As such, claims 1-14 are not obvious in view of Khaleghi and the other cited references.

With further regard to claim 3, Khaleghi does not disclose a continuous optical path in Figure 1 (reference number 16) as suggested by the Action. Figure 1 clearly shows a WDM system that is optically terminated at both ends by transmitters (Tx1-Tx4) in transmitter terminal 12 and receivers (Rx1-Rx4) in transmitter terminal 12 and receiver terminal 14, respectively, and does not connect the plurality of transmitters and the first and second receivers at different destinations. Therefore, it is not a continuous optical path as described specifically in the claim 3 generally throughout the specification.

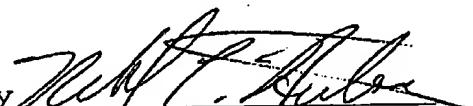
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As previously discussed Taylor and Mizrahi fail to cure the shortcomings of Khaleghi. For example, Taylor suggests using inverse multiplexer to enable all channels to be at the same bit rate, not as set forth in the claimed invention. As such, these references, either alone or in combination, fall short of rendering the claimed invention obvious.

It is compelling that the references cited in the various Actions all fall short of disclosing one or more of the same claimed features. This consistent failure of the references to disclose specific claimed features should be viewed as indicative that the present invention is not obvious. As such, Applicants believe claims 1-14 are in condition for allowance and respectfully request that a Notice of Allowance be issued in this case.

Applicants believe that no additional fees are due with this response. However, the Commissioner is authorized to charge any fees, including those under 37 CFR 1.16 and 1.17, necessitated by this amendment and credit any overpayments to Deposit Account No. 500477.

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Appendix